

Dear [Insert Head Teachers name]

As the parent of a child attending your school, I am writing to you with regards to non-statutory Scottish Government guidance that you may be relying on to support you as you work with children experiencing gender distress or those questioning their identity.

The Supporting transgender young people in schools: guidance for Scottish schools (<https://www.gov.scot/publications/supporting-transgender-young-people-schools-guidance-scottish-schools/>) has recently been under scrutiny due to a petition raised by the grassroots organisation **Safeguarding Our Schools – Scotland**. Unfortunately, the petition was closed on 06th December 2023 without adequate consideration of the evidence submitted by **SOS Scotland**, the EHRC, For Women Scotland and others. You can find the committee discussion around this decision here: <https://www.scottishparliament.tv/meeting/citizen-participation-and-public-petitions-committee-december-6-2023>

As a parent, I believe it is important that all children in your school receive the best possible support and care, regardless of how they choose to identify. This includes children who are *not* experiencing gender distress but are expected to play a part in the affirmation of other children who are.

Safeguarding Our Schools – Scotland submitted substantial and incredibly important evidence and information about how the current Scottish Government guidance places children and their families at risk of harm and how this can play an impactful role on the relationship between schools and parents <https://www.parliament.scot/get-involved/petitions/view-petitions/pe2001-withdraw-the-supporting-transgender-young-people-in-schools-guidance-from-scottish-schools>

They also highlighted that the Equality and Human Rights commissions (EHRC) had recently updated the Technical Guidance for Schools – Scotland and said:

“The EHRC’s review of its Technical Guidance for Schools concluded that some areas of the document, relating to sex and gender reassignment, required updating to be legally correct. The points corrected in the updated guidance include a section on the use of names and pronouns; an example of gender reassignment discrimination in relation to school exclusion; an example with respect to gender segregation in schools amended to be in line with regulations on school toilets in England and Scotland; a reference to segregation on the grounds of gender; and updated definitions of sex and gender reassignment.”

The section in the Scottish Government Guidance (p59) which quotes the previous EHRC Guidance is now out of date. The EHRC has substantially revised their understanding of how the Protected Characteristic of Gender Reassignment is demonstrated in schools.

The assumption that a child can merely dress in a different way or tell someone of their intentions in order to be covered under the protected characteristic has been removed, as has FAQ 3.36 which had stated that if a “previously female has started to live as a boy and adopted a male name” it would be direct discrimination for the school to not use the male name and refer to the girl as a boy.

This means that the Scottish Government guidance that you may be using, is out of date and no longer reflective of current understanding of equality law.

Also, as part of the evidence submitted by **SOS Scotland**, they drew attention to recently developed modules, by NHS England, which aims to explore ways to offer holistic, thoughtful, and informed support within education settings for children and young people who might be gender questioning or

experiencing

gender-related

distress:

<https://www.minded.org.uk/LearningContent/LaunchForGuestAccess/819541>

These modules appropriately identify that the needs of young people who are gender questioning or distressed are varied, and there are lots of different pathways and future outcomes for them. This is counter to the Scottish Government guidance which places all emphasis on an affirmation approach.

The risk with an affirmation first approach, as considered by Dr Hilary Cass, the eminent paediatrician commissioned by the government to review paediatric gender-identity provision in the NHS, is that social transition (changing name and pronouns etc) is not a neutral act but a major psychosocial intervention that may affect whether a child's gender distress disappears or becomes long-lasting.



The MindEd modules also state that parental involvement is key:

“Supporting the social transition without the involvement of parents or carers can create complex difficulties within families and is not recommended. Secrets between parents or carers and their children are problematic and are likely to create further issues in the future. When parents or carers discover that changes have been made without their involvement, this can increase risks and can alienate parents and carers from their children (and vice versa) and/or the education setting.”

The Scottish Government Guidance stresses parental awareness of their child's social transition at school is optional:

“A transgender young person may not have told their family about their gender identity. Inadvertent disclosure could cause unneeded stress for the young person, or it could put them at risk and breach legal requirements. Therefore, it is best not to share information with parents or carers without considering and respecting the young person's views and rights.”

The Scottish Government has been unable to cite any legislation to support the belief that a child must give permission for their parents to be informed.

I would also like to draw your attention to the submission made by For Women Scotland (<https://forwomen.scot/18/06/2023/withdraw-the-supporting-transgender-young-people-in-schools-guidance-from-scottish-schools/>), which highlights the following areas within the Scottish Government guidance that undermine the rights of female students, misinterpret the law, or omits it entirely:

“There is no law in Scotland which states that only people assigned male at birth can use men’s toilets and changing rooms, or that only people assigned female can use women’s toilets and changing rooms.” (p26)

“It is therefore important that young people, where possible, are able to use the facilities they feel most comfortable with.” (p27)

Mixed-sex toilets are not legal in Scottish schools. The building standards technical handbook 2019: non-domestic provides guidance for accessible toilets and states that, otherwise, sanitary facilities in schools should be provided in accordance with the School Premises (General Requirements and Standards) (Scotland) Regulations 1967. This law gives a minimum number of appliances dependent on the school roll and mandates that half the accommodation shall be for boys and the other half for girls. There is no provision for unisex, mixed-sex or gender-neutral facilities within that number.

The school guidance omits any mention of this legal requirement. It is missing entirely, even in the “Policy, legislation and further information” section on p53.

“if PE classes are organised by sex, a transgender young person should be allowed to take part within the group which matches their gender identity. For a non- binary young person, ask them which group they would feel most comfortable being with” (p30)

“If a transgender young person wants to share a room with other young people who share their gender identity, they should be able to do so” (p32)

For similar reasons to that outlined for toilets above the information given on single-sex sports and overnight accommodation is inaccurate and unlawful. At a time when 43% of girls feel they were sporty as primary pupils but no longer see themselves that way as teenagers it is almost inconceivable to have school guidance that deliberately diminishes their opportunities, confidence, and safety by allowing boys to participate and excel in girls’ sport, as well as use their changing rooms.

The Scottish Government guidance is not the best approach to getting it right for every child, or to making sure that families are supported and not negatively impacted by a school's decision and doesn't consider a whole school approach to ensuring other children are not harmed by being expected to affirm other children's likely transient identity.

I am writing to ask that you consider other guidance when looking at this issue, and that instead of relying on the current guidance, the MindEd modules linked above are used to inform the decisions that you make in this area.

I would also remind you, that parents should be involved in discussion about how our school moves forward in respect to this complex area. If our children are expected to adhere to decisions you make, then parents must also be given a voice and the opportunity to participate in wider conversations. I would welcome having further discussions with you on this matter, should this be something you wish to consider in more depth.

Kind regards,

[Insert name]